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Before the
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Common Carrier Bureau Seeks Comment
on the Texas Public Utility
Commission Petition For
Delegation of Additional Authority
To Implement Number Conservation
Measures

DA 99-1380
NSD File No. L-99-55

CC DOCKET: 96-98

To: Chief, Common Carrier Bureau

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. INTRODUCTION

Pursuant to the Public Notice of the Federal Communications Commission ("Commission"),^{1/} Nextel Communications, Inc. ("Nextel") respectfully submits these Comments on the Texas Public Utilities Commission's ("PUC") request for additional authority to implement various number conservation measures that are outside the scope of the PUC's delegated authority.^{2/}

In the Request, the PUC seeks authority to (a) impose 1,000 block number pooling prior to the implementation of federal pooling rules, (b) implement unassigned number porting, (c) reclaim unused NXX codes and 1,000 number blocks, (d) require all codeholders to

^{1/} Public Notice, "Common Carrier Bureau Seeks Comment on the Texas Public Utilities Commission Petition for Delegation of Additional Authority to Implement Number Conservation Measures," DA 99-1380, released July 14, 1999.

^{2/} Petition of the Public Utility Commission of Texas for Expedited Decision for Delegation of Authority To Implement Number Conservation Measures, filed July 2, 1999 (hereinafter "Request").

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provide to the PUC utilization and forecast information, and (e) impose sequential numbering requirements.^{3/}

Nextel submits these comments to oppose the PUC's Request, to the extent discussed below, because its proposals would impose a different set of number assignment and code conservation standards and guidelines in Texas than are imposed in other states. Imposing a unique set of rules in Texas, particularly while the Commission is considering consistent national policies, would complicate the North American Numbering Plan Administrator's ("NANPA") efforts to implement and direct the code assignment process, and it would create operational complexities for carriers.

II. BACKGROUND

In its 1998 decision regarding the Pennsylvania Public Utilities Commission's decision ordering number assignment measures,^{4/} the Commission affirmed its earlier conclusion that it has plenary authority over administration of the NANPA pursuant to the Communications Act,^{5/} and it delegated only limited authority for states to select among certain code relief alternatives. The PA PUC decision granted states additional authority to order code rationing in narrowly defined circumstances: (a) there is a specific code relief plan in place,

^{3/} See Request at p. 10.

^{4/} Memorandum Opinion and Order and Order on Reconsideration, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42 (released September 28, 1998) ("PA PUC Decision").

^{5/} See Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392 (1996) at para. 285.

(b) the Numbering Plan Area ("NPA") would run out of numbers prior to the implementation of relief, and (c) the industry has been unable to reach a consensus on a rationing plan.^{6/} However, other conservation measures, such as number pooling -- whether thousands block pooling or individual telephone number pooling -- were not delegated to the states because "of the activity occurring at the federal level to develop such national standards" for number pooling.^{7/} As the Commission stated therein, "[i]f each state commission were to implement its own NXX code administration measures without any uniformity or standards, it would hamper the NANPA's efforts to carry out its duties as the centralized NXX code administrator."^{8/}

Thus, the Commission reaffirmed the demarcation of jurisdiction regarding numbering issues. At the same time, however, the Commission indicated that it would entertain state requests for additional authority to implement conservation measures outside the scope of their delegated authority.^{9/} The Commission stated that it is "interested in working with state commissions that have additional ideas for innovative number conservation methods that this Commission has not addressed, or state commissions that wish to initiate number pooling trials the implementation of which would fall outside of the guidelines we

^{6/} PA PUC Decision at para. 24.

^{7/} *Id.* at para. 27.

^{8/} *Id.* at para. 33.

^{9/} *Id.* at para. 31.

adopt in this Order."^{10/} Such requests, however, would have to demonstrate "a proposed conservation method [that] will conserve numbers and thus slow the pace of area code relief, without having anti-competitive consequences. . . ." ^{11/}

Additionally, the Commission is considering industry comments on appropriate implementation of number conservation measures at the federal level.^{12/} After the recent work of the NANC and its Number Resource Optimization working group ("NRO") to develop nationwide number pooling standards and other code conservation mechanisms, the Commission sought industry comment on the NRO's conclusions and is now accepting further comments on specific proposals to implement the NRO Report. By conducting this investigation at the federal level, the Commission can ensure the adoption of nationwide standards rather than a patchwork of state rules and regulations that would be "impossible" for the NANPA to administer.^{13/}

III. DISCUSSION

Despite the PUC's request for additional authority to implement code conservation measures, Nextel reiterates herein that there are numerous avenues open to the PUC to improve efficiencies in the number assignment and utilization process. For example, as

^{10/} *Id.*

^{11/} *Id.*

^{12/} Notice of Proposed Rulemaking, CC Docket No. 99-200, FCC 99-122, released June 2, 1999. Comments were filed on July 30, 1999; replies are due on August 30, 1999.

^{13/} See PA PUC Decision at para. 33.

the PUC recognized in its Request, rate center consolidation resulted in the return of 72 unused NXX. Such measures, therefore, are helpful in preserving numbering resources and ensuring that they are assigned in an effective and efficient manner, and such measures do not interfere with the Commission's attempt to improve the Nation's telephone number assignment process nor do they create significant operational and technical difficulties for multi-state, regional and national carriers.

A. Pooling Measures

In the Request, the PUC proposes to implement 1,000 number block pooling and unassigned number porting.^{14/} To the extent that carriers are LNP-capable and can thereby participate in 1,000 block number pooling, the PUC's proposal could improve efficiencies in the code allocation process in Texas. Nextel, therefore, does not oppose the PUC's request to impose 1,000 block number pooling in the 817 area code if (a) it is limited only to LNP-capable carriers, and (b) it is not a substitute for area code relief. Because wireless carriers are not LNP-capable and will not be prepared to implement LNP until well after the wireline industry, the PUC must ensure that wireless carriers continue to have access to 10,000 number blocks on a timely basis. Additionally, similar to the mandatory pooling trial in Illinois, the PUC should be required to establish a specific relief plan, i.e., split or an overlay, that can be implemented expeditiously should telephone

^{14/} Request at p. 10.

numbers exhaust despite the use of 1,000 number block pooling.^{15/}

With regard to the PUC's other pooling proposal, i.e., unassigned number porting, Nextel notes that the NANC's Number NRO committee has already studied this conservation measure and it is subject to industry comment in the Commission's pending proceeding on number conservation. The NRO Report concluded that unassigned number porting, i.e., the direct transfer of telephone numbers from one carrier's inventory to another, would not be required with the implementation of 1,000 number pooling. Thus, if 1,000 block number pooling is implemented as described above, this conservation measure would not be necessary -- particularly if the PUC implements the other numbering changes that are already within its scope of authority.

B. Number Utilization Reports

Nextel has stated that it believes the NANPA's number assignment process must be improved. However, that does not change the fact that the auditing, reporting, allocation and enforcement of telephone number usage all fall within the scope of NANPA's authority. The PUC is attempting to step into the shoes of NANPA and establish Texas' own rules and requirements regarding the assignment of telephone numbers. The return of unused telephone

^{15/} The PUC asserts that the 54 NXX codes requested in the 817 area code during June 1999 may have been "an attempt by the industry to discourage" a number pooling trial. Nextel did not request any 718 area codes in June 1999 and, as explained herein, is not opposed to a limited number pooling trial in the 817 area code.

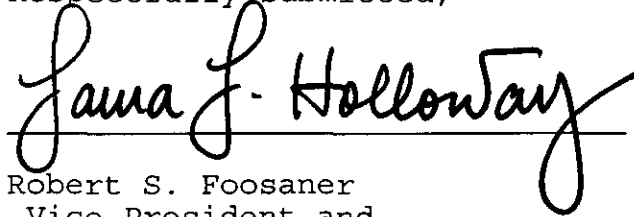
numbers, completion of code usage surveys, sequential number assignments and enforcement of code allocation measures all fall within the NANPA's authority. There is no reason, particularly in the midst of the NANC's and the Commission's efforts to improve NANPA's procedures, why the PUC should be allowed to overtake these responsibilities and create inconsistent guidelines for carriers operating in Texas.

NANPA is charged with allocating numbers to carriers, pursuant to consistent nationwide standards, and enforcing compliance with those standards. As the Commission has already concluded, allowing states to impose their own requirements could result in a hodge-podge of enforcement guidelines, making it "impossible" for the NANPA to administer the rules and carriers to comply with them. Again, Nextel urges the PUC to continue focusing its efforts on improving the NANPA's ability to obtain consistent number utilization data for better monitoring, auditing and projected number resource use. These efforts involve important issues of confidentiality as well as consistency on a national basis. The ongoing federal effort is considering all of these issues, as well as measures for state PUC access to such information where warranted. Accordingly, the PUC's participation in the ongoing federal proceeding -- rather than a state-by-state departure from the federal requirements -- is the best approach for achieving more efficient number use.

IV. CONCLUSION

To the extent described above, Nextel opposes the PUC's proposals.

Respectfully submitted,

A handwritten signature in black ink, reading "Robert S. Foosaner", written over a horizontal line.

Robert S. Foosaner
Vice President and
Chief Regulatory Officer

Lawrence R. Krevor
Senior Director - Government Affairs

Laura L. Holloway
Director - Government Affairs

Nextel Communications, Inc.
1450 G. Street, N.W.
Suite 425
Washington, D.C. 20005
202-296-8111

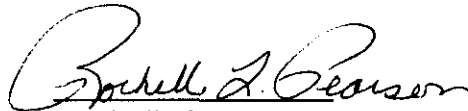
Date: August 16, 1999

CERTIFICATE OF SERVICE

I, Rochelle L. Pearson, hereby certify that on this 16th day of August 1999, caused a copy of the attached Comments of Nextel Communications, Inc. to be served by hand delivery to the following:

Al McCloud
Network Services Division
Federal Communications Commission
445 - 12th, SW
Room 6A-423
Washington, DC 20554

Jared Carlson
Network Services Division
Federal Communications Commission
445 - 12th, SW
Room 6A-331
Washington, DC 20554



Rochelle L. Pearson